

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

COURTNEY ANN ALTEMUS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:22-cv-00040
)	
BLAKEY FAMILY LAND, LLC,)	
)	
Defendant.)	

REPLY IN SUPPORT OF MOTION FOR EXTENSION OF TIME

COMES NOW the Defendant, Blakey Family Land, LLC, and hereby files its Reply in Support of the Motion for Extension of Time.

There is a certain irony to Plaintiff suggesting that Defendant should suffer a default judgment as the result of its counsel's one-day delay in filing the Answer while at the same time waiting two weeks to file the affidavit required by Rule 55(b)(1). Nevertheless, the Plaintiff's failure to file the required affidavit means that as a matter of law there was no properly filed motion for default before the Court when the Defendant moved for a one-day extension of time to file its Answer. As such, the analysis of the relief to be granted should be done under Rule 6.

Plaintiff acknowledges that the Motion for Extension lays out all of the facts necessary for relief, but complains that the Answer does not specifically identify any specific defenses to the Complaint. This position requires Plaintiff to ignore the entirety of the briefing and argument which occurred over the Defendant's Motion to Dismiss. *See, e.g.*, Docket Nos. 11, 16, and 19.

In the Motion to Dismiss, the Defendant identified a number of defenses, including that Plaintiff had not alleged (and will not be able to prove) that "any transfer from Sampson to Defendant was made for the purpose of keeping the funds away from the Plaintiff." Docket No.

11, pg. 4. This would leave Plaintiff unable to show that Sampson took any action to delay, hinder, or defraud the Plaintiff, a necessary part of a claim for fraudulent conveyance. Defendant also identified the deficiencies in Plaintiff's claim for a constructive trust, including that the funds from Plaintiff were less than the whole value of the Property, and as such a constructive trust on the whole Property would not be available to the Plaintiff. *Id.* at 5.

While the Court denied the Motion to Dismiss, it did so on the basis that the defenses were questions of fact, as evidenced by the Plaintiff's argument that the Motion to Dismiss should be treated as a motion for summary judgment (*see* Docket No. 16, pg. 1, fn. 1) and the colloquy with the Court of the same issue during oral argument. Defendant has asserted multiple meritorious defenses to the Complaint from the beginning, and expects to develop additional defenses as discovery proceeds.

The Fourth Circuit has always expressed "a strong policy that cases be decided on their merits, Broden, Inc. v. Fairland Mkt., Inc., 2022 U.S. Dist. LEXIS 110457, at *7 (D. Md. June 21, 2022), *citing* United States v. Shaffer Equipment Company, 11 F.3d 450, 453 (4th Cir. 1993). The day before filing her opposition to the Motion for Extension of Time, Plaintiff served a number of discovery requests on the Defendant, as well as issuing several 3rd party subpoenas. Defendant requests that this case be allowed to proceed with discovery, and reach a determination on the merits.

WHEREFORE, Defendant respectfully requests that the Court extend the time for the filing of its Answer, and permit the previously filed Answer.

Respectfully Submitted,
BLAKEY FAMILY LAND, LLC
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2022, I caused the foregoing to be filed with the Court on its CM/ECF system, which will send copies to all counsel of record, including:

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